

REMARKS

Reconsideration of this application as amended is respectfully requested. Claims 1, 4, 5 and 13 have been amended, and claims 3 and 24 have been cancelled. Accordingly, claims 1, 2 and 4-23 remain in this application and are again presented for the Examiner's consideration in view of the following comments.

In the Official Action, claims 1, 2, 17, 18, 20, 21 and 24 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,506,533 to *Berner*. Claim 24 has been cancelled. Applicant respectfully traverses this rejection as to the remaining claims.

Applicant notes that claim 1 includes the requirement for a film including a metal layer and a polymer layer, with the polymer layer "being disposed between said metal layer and said foam web". Support for this limitation can be found in paragraphs [0033] and [0034] of the specification.

Berner fails to disclose such structures. More particularly, *Berner* discloses laminate structures having a backing or base material composed of porous polymeric material (column 3, lines 4-9) with face sheets applied to one or both faces thereof. The face sheets are formed from paper, plastic foil or metallic foil (column 3, lines 9-11). *Berner* fails to teach structures in which a polymer layer is interposed between a metal layer of a film and a foam web. Moreover, it would not be obvious from *Berner* to interpose a polymer film between the metal layer and the base layer thereof since *Berner* is concerned with providing a foam/film laminate having improved strength, yet which is flexible in directions transverse to the longitudinal direction of the web. The use of paper, metal or polymer films provides the desired features, without the need to use metal/polymer films.

In view of the foregoing, applicant submits that claim 1 patentably distinguishes over *Berner* such as to warrant its immediate allowance. Moreover, claims 2, 17, 18, 20 and 21 depend either directly or indirectly from claim 1 and include all of the limitations of that claim. For at least this reason, applicant submits that these dependent claims are also in condition for allowance.

Claims 3-16, 19, 22 and 23 were rejected under 35 U.S.C. § 103(a) as being obvious over *Berner* in view of either U.S. Patent No. 4,637,184 to *Radtke et al.* ("*Radtke*") or U.S. Patent No. 4,825,089 to *Lindsay*. Claim 3 has been cancelled. This rejection is respectfully traversed as to the remaining claims in view of the amendments set forth above and the comments which follow.

Applicant initially reiterates the comments set forth above with respect to the clear deficiencies of *Berner*. Both *Radtke* and *Lindsay* fail to overcome these deficiencies.

Turning first to *Radtke*, applicant notes that the Fig. 1 embodiment includes a layer of concrete 10, a heat insulating layer 11 and a metal sheet 12 arranged above the heat insulating layer 11 (column 5, lines 49-42). Even if insulating layer 11 were considered a foam web, which is not at all clear from *Radtke*, such structure would not teach a polymer layer between a metal layer and the foam web. A shaped plastic mold 14 rests on top of metal layer 12 and is filled with bodies 25 of rubble and a layer of plaster 18 (column 5, line 53 through column 6, line 11). Hence, this part of the structure also fails to teach a polymer layer interposed between a foam web and a metal layer. Moreover, *Radtke* discloses metal sheet 12 as being used to better distribute the load of the floor top 13 (column 5, lines 50-62). Clearly, the metal sheet 12 of *Radtke* does not have the flexibility required by *Berner*, either for forming grooves 4 in

the foam/film laminate, or for producing a laminate which can be bent or shaped as intended by the reference.

The Fig. 3 embodiment of *Radtke* is similar to the Fig. 1 embodiment described above. However, rather than being formed entirely from a plastic foil, the mold forming the floor top 13 may be formed from a combination of metal/plastic foil. Nonetheless, nothing in the reference suggests that insulating layer 11 is a foam web, which of the two layers is adjacent insulating layer 11 (i.e., that a polymer layer is between a metal layer and a foam web), or that foil layer 26 adheres to free edges of ribs in a foam web. Thus, the combination of *Radtke* with *Berner* still fails to teach the structures recited in claim 1.

Moreover, aside from teaching the possible use of polymer/metal laminates, the structures of *Berner* and *Radtke* are so plainly different from one another that applicant does not understand how the combination suggested by the Examiner would be made. Indeed, applicant submits that one making the flexible structures of *Berner* would not look to *Radtke* which merely teaches the assembly of multiple layers one on top of the other during the fabrication of a floor.

Turning next to *Lindsay*, this reference teaches in Figs. 15-16 an expanded polystyrene base element 100 with a metallized film layer 120 secured to the tops of the grooved surface of the base element. The film layer 120 is formed from a substrate 122 that is metallized on both its top side 124 and bottom side 126 (column 6, lines 45-57). Hence, *Lindsay* fails to teach the structure set forth in claim 1 in which a polymer layer is disposed between the metal layer and the foam web.

In view of the foregoing, applicant submits that claim 1 patentably distinguishes over *Berner* when combined with either *Radtke* or *Lindsay* as proposed by the Examiner. As claims 4-16, 19, 22 and 23 include all of the limitations of claim 1,

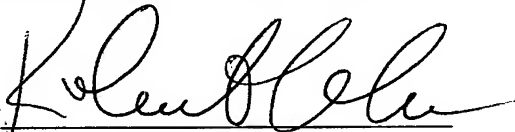
applicant submits that, for at least this reason, these claims patentably distinguish over *Berner* in combination with either *Radtko* or *Lindsay*. Accordingly, applicant submits that claims 4-16, 19, 22 and 23 are allowable.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 16, 2006

Respectfully submitted,

By 

Robert B. Cohen
Registration No.: 32,768
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant